IN THE HIGH COURT OF JUDICATURE OF BOMBAY
IN INSOLVENCY JURISDICTION

PETITION NO.61 OF 2006

Re: Ashok M. Soni. ..Debtor.

Ex-partee:

Bhanwarlal J. Jain ..Pet. Creditor.

Mr.R.D.Dave i/b. N.N.Vaishnawa & Co. for Petitioning Creditor.

Mr.M.V.Limaye for Debtor.

CORAM: A.M.KHANWILKAR,J
DATE : NOVEMBER 20, 2007.

P.C. :

1. This Petition has been filed for adjudicating Debtor as insolvent on the basis of decree passed by this Court in Summary Suit filed by the Petitioning Creditor. Initially conditional order was passed on 31st January, 2005 by this Court in the Summons for Judgment taken out in the Summary Suit. Against that decision, the Debtor carried the matter in appeal. The said appeal was dismissed on 30th March, 2005. Later on Summary Suit itself proceeded further and exparte decree came to be passed on 26th September, 2005.

2. Inspite of the conditional order passed in the Summons for Judgment as well as subsequent exparte decree, debtor has not paid any amount to the petitioning creditor. Petitioning creditor

eventually took out Insolvency notice being Notice No.N/235/2005 against the debtor on 8th December, 2005.

3. On issuance of notice in the said proceedings, the Debtor took out Notice of Motion before this Court for setting aside and/or recalling the insolvency notice, which Motion however, came to be dismissed on 25th April, 2006.

4. Inspite of that order, the Debtor has not paid any amount to the Petitioning Creditor. As a result, the act of insolvency is completed. In this back drop, present petition has been filed by the Petitioning Creditor on 1st July, 2006. Although the Debtor has been duly served and in fact has entered appearance through advocate, no reply has been filed. No explanation has been offered on behalf of the Debtor. In the circumstances, I have no hesitation in allowing the present petition in terms of prayer clause (d) and (e) which read thus:

> "(d) That an order adjudicating the Debtor as insolvent may be passed and he may be adjudicated insolvent;
>
> (e) Costs of this Petition be provided for;

. Ordered accordingly.

(A.M.KHANWILKAR,J)